

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY
10/23/2001

*** FILED ***
10/29/2001
CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2001-000306

FILED: _____

STATE OF ARIZONA GERALD R GRANT

v.

JERRY LEE ANAYA

JERRY LEE ANAYA

12405 N 123RD DR
EL MIRAGE AZ 85335-0000

DISPOSITION CLERK-CCC
GLENDALE JUSTICE COURT
REMAND DESK CR-CCC

MINUTE ENTRY

GLENDALE JUSTICE COURT

Cit. No. #0295413

Charge: A. SPEED NOT REASONABLE AND PRUDENT

DOB: 04/03/80

DOC: 01/06/01

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This case was assigned to this division on October 15, 2001. This decision is made within 30 days as required by Rule 9.8, Maricopa County Superior Court Local Rules of Practice. The Court has considered the tape recording of the proceedings from the Glendale Justice Court, the records from the Glendale Justice Court, and the Memoranda submitted.

Appellant, Jerry Lee Anaya, was accused of Speed Not Reasonable and Prudent, a Civil Traffic violation in violation of A.R.S. Section 28-701(A). The violation was alleged to have occurred January 6, 2001 at 11:30 p.m. The trial occurred May 8, 2001 before Quentin Tolby, Glendale Justice of the Peace.

At the beginning of the hearing Appellant notified the trial judge that he had a witness present. The judge requested that that witness come forward and be sworn as the other

witnesses. However, after Appellant testified, the trial judge began arguing with Appellant and then proceeded to summarily find Appellant responsible. When Appellant inquired, “What about my witness?” the trial judge stated words to the effect of, “How can he testify about your speed, how is he qualified, I’ve already heard from the police officer?”

Rule 21 of the Rules of Procedure in Civil Traffic cases provides:

The order of proceeding shall be as follows:

- (a) Testimony of State’s witnesses.
- (b) Testimony of Defense witnesses.
- (c) Testimony of State’s rebuttal witnesses, if any.
- (d) Testimony of Defense sur-rebuttal witnesses, if any.
- (e) Argument of the parties or their counsel if permitted by the court.
- (f) Ruling by the Court. (emphasis added).

It is clear from the record that the trial judge interrupted Appellant during the testimony of the defense witnesses and prevented Appellant from calling his witness. Unfortunately, the record does not reflect the name of that witness. The due process right to a fair trial applies to litigants in all of Arizona’s Courts.¹ Fundamental fairness and due process require that a litigant be allowed to completely present their case and call all witnesses whom they wish the Court to hear. The denial of a right to call a witness, absent some legal reason, is a denial of due process. Such a denial constitutes fundamental error.²

For the reasons that the Appellant was denied his right to present a defense witness and the trial judge’s interference with Appellant’s due process right to present his defense,

IT IS ORDERED reversing the judgment of responsibility and the sanction imposed in the Glendale Justice Court.

IT IS FURTHER ORDERED remanding this matter for a new trial in the same court.

¹ Arizona Constitution Article II, Section 4.

² See State v. Flowers, 159 Ariz. 469, 768 P.2d 201 (App. 1989).